

# EXHIBIT A

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ACE AUTO CARE, §  
Plaintiff, §  
v. § CIVIL ACTION NO. \_\_\_\_\_  
NORTHFIELD INSURANCE COMPANY, §  
Defendant. §

**INDEX OF STATE COURT MATERIALS**

No.	Date Filed or Entered	Document
A-1	N/A	Civil Docket Sheet
A-2	07/25/2017	Plaintiff Ace Auto Care's Original Petition
A-3	07/25/2017	Civil Process Request
A-4	07/25/2017	Civil Case Information Sheet
A-5	07/28/2017	Citation Issued to Northfield Insurance Company
A-6	08/11/2017	Return of Service for Citation to Northfield Insurance Company
A-7	08/18/2017	Defendant Northfield Insurance Company's Original Answer

# EXHIBIT A-1

## Case Information

DC-17-08944 | ACE AUTO CARE vs. NORTHFIELD INSURANCE COMPANY

Case Number	Court	Judicial Officer
DC-17-08944	116th District Court	PARKER, TONYA
File Date	Case Type	Case Status
07/25/2017	CNTR CNSMR COM DEBT	OPEN

## Party

PLAINTIFF  
ACE AUTO CARE

Active Attorneys▼  
Lead Attorney  
PATTERSON, SEAN  
M  
Retained

Work Phone  
713-334-6121

Fax Phone  
713-322-5953

---

DEFENDANT  
NORTHFIELD INSURANCE COMPANY

Address  
505 5TH AVE SUITE 729  
DES MOINES IA 50309

Active Attorneys▼  
Lead Attorney  
LEWIS, WILLIAM  
LANCE  
Retained

Work Phone  
214-871-2100

Fax Phone  
214-871-2111

---

## Events and Hearings

07/25/2017 NEW CASE FILED (OCA) - CIVIL
07/25/2017 ORIGINAL PETITION ▾ pl 7.25.2017 re POP.pdf
07/25/2017 REQUEST FOR SERVICE ▾ 7.25.2017 re CPR.pdf
07/25/2017 CASE FILING COVER SHEET ▾ 7.25.2017 re InfoSheet.pdf
07/25/2017 JURY DEMAND
07/25/2017 ISSUE CITATION ▾ ISSUE CITATION
07/28/2017 CITATION ▾ Anticipated Server CERTIFIED MAIL  Anticipated Method Actual Server CERTIFIED MAIL  Returned 08/11/2017 Comment CERT MAIL/KW/9214 8901 0661 5400 0110 6113 52
08/14/2017 RETURN OF SERVICE ▾ NORTHFIELD  Comment CIT EXEC 8/9/17 TO NORTHFIELD INS CO CERT MAIL
08/18/2017 ORIGINAL ANSWER - GENERAL DENIAL ▾ Answer.pdf

## Financial

ACE AUTO CARE

Total Financial Assessment	\$434.00
Total Payments and Credits	\$434.00

7/28/2017	Transaction	\$434.00
-----------	-------------	----------

Assessment

7/28/2017	CREDIT	Receipt #	ACE	(\$434.00)
	CARD -	47165-2017-DCLK	AUTO	
	TEXFILE		CARE	
	(DC)			

## Documents

pl 7.25.2017 re POP.pdf

7.25.2017 re CPR.pdf

7.25.2017 re InfoSheet.pdf

ISSUE CITATION

NORTHFIELD

Answer.pdf

# EXHIBIT A-2

Marissa Pittman

**CAUSE NO.** DC-17-08944

## PLAINTIFF ACE AUTO CARE'S ORIGINAL PETITION

**TO THE HONORABLE JUDGE OF SAID COURT:**

**COMES NOW**, Ace Auto Care, (hereinafter referred to as "Plaintiff"), complaining of Northfield Insurance Company, (hereinafter referred to as "Defendant") and for cause of action would respectfully show unto this Honorable Court and Jury as follows:

## **DISCOVERY CONTROL PLAN**

1. Plaintiff intends for discovery to be conducted under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this suit is not governed by the expedited-actions process of Texas Rule of Civil Procedure 169 because Plaintiff seeks monetary relief of over \$100,000.00.

3. Northfield Insurance Company is a foreign insurance company engaging in the business of insurance in the State of Texas. Defendant may be served with process by serving its principal place of business at the following address: 505 5<sup>th</sup> Ave, Suite 729, Des Moines, IA, 50309-2318.

### **JURISDICTION**

4. The Court has jurisdiction over this cause of action because the amount in controversy is within the jurisdictional limits of the Court.
5. The Court has jurisdiction over Defendant Northfield Insurance Company because Defendant is a foreign insurance company that engages in the business of insurance in the State of Texas and Plaintiff's causes of action arise out of Defendant's business activities in the State of Texas. Specifically, Northfield Insurance Company sought out and marketed for insurance in Texas and has "purposefully availed" itself of the privilege of conducting activities in Texas. *Kelly v. General Interior Constr., Inc.*, 301 S.W.3d 653, 660-61 (Tex. 2010).

### **VENUE**

6. Venue is proper in Dallas County, Texas, because the Property is situated in Dallas County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.032.

### **FACTS**

7. Plaintiff purchased a policy from Defendant Northfield Insurance Company, (hereinafter referred to as "the Policy"), which was in effect at the time of loss.
8. The Policy was purchased to insure Plaintiff's property, (hereinafter referred to as "the Property"), which is located at 9090 Forest Ln, Dallas, Texas 75243.

9. Defendant Northfield Insurance Company and/or its agent sold the Policy insuring the Property to Plaintiff.
10. Plaintiff is a “consumer” as defined under the Texas Deceptive Trade Practices Act (“DTPA”) because it is an individual who sought or acquired by purchase or lease, goods or services, for commercial, personal or household use.
11. On or about April 25, 2015, Plaintiff experienced a severe weather related event which caused substantial damage to the Property and surrounding homes and businesses in the area. The Property’s damage constitutes a covered loss under the Policy issued by Defendant Northfield Insurance Company. Plaintiff subsequently opened a claim on April 25, 2015 and Defendant Northfield Insurance Company assigned an adjuster to adjust the claim.
12. Northfield’s adjuster, on behalf Defendant, performed an insufficient and unreasonable investigation of the claim. Northfield failed to properly inspect and did not conduct a thorough investigation of the claim. Northfield intentionally did not give an allowance to repair the storm damage suffered to the property and purposefully under-scope its investigation of the claim. Northfield intentionally denied coverage for the damage to the property, although the damage was covered under the policy. Although our client presented overwhelming evidence that the property suffered severe damage that is covered under the policy, Northfield continued its unreasonable stance to deny coverage for the claim. Northfield also refused to give our client a reasonable explanation why coverage was not afforded for all the damage to the property and why Northfield refused to issue sufficient payment to repair the damage.

13. Thereafter, Defendant Northfield Insurance Company wrongfully underpaid Plaintiff's claim and refused to issue a full and fair payment for the covered loss as was rightfully owed under the Policy.
14. Defendant made numerous errors in estimating the value of Plaintiff's claim, as exhibited by its assigned adjuster's method of investigation and estimation of Plaintiff's loss, all of which were designed to intentionally minimize and underpay the loss incurred by Plaintiff. Defendant's assigned adjuster failed to fully quantify Plaintiff's covered losses, thus demonstrating that Defendant's assigned adjuster did not conduct a thorough investigation of Plaintiff's claim and/or intentionally adjusted Plaintiff's claim improperly.
15. Specifically, Defendant, independently and through its assigned adjuster, intentionally and knowingly conducted a substandard investigation of the Property. This is evidenced by Defendant's assigned adjuster's estimate, which failed to include all necessary items Plaintiff is entitled to under the Policy to place the Property in a pre-loss condition. These necessary items are covered and required under the International Building Code and/or International Residential Code, as adopted by the State of Texas in 2001.
16. In addition, the Occupational Safety and Health Administration ("OSHA") dictates, when working on buildings with "unprotected sides and edges" that "each employee on a walking/working surface (horizontal and vertical surface) with an unprotected side or edge which is 6 feet (1.8m) or more above a lower level **SHALL** be protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems." Occupational Safety and Health Act of 1970 § 1926.501(b)(1) (emphasis added). This protection was intentionally not included or reflected within the scope of work provided by

Defendant for Plaintiff's damages to the Property as an attempt to further deny Plaintiff benefits owed under the Policy.

17. Defendant's estimate did not allow for adequate funds to cover the cost of repairs and therefore grossly undervalued all of the damages sustained to the Property. As a result of Defendant's conduct, Plaintiff's claim was intentionally and knowingly underpaid.

18. Defendant's assigned adjuster acted as an authorized agent of Defendant Northfield Insurance Company. Defendant's assigned adjuster acted within the course and scope of their authority as authorized by Defendant Northfield Insurance Company. Plaintiff relied on Defendant and Defendant's assigned adjuster to properly adjust the claim regarding the Property and to be issued payment to fix such damage, which did not happen and has not been rectified to date.

19. Defendant Northfield Insurance Company failed to perform its contractual duties to adequately compensate Plaintiff under the terms of the Policy. Specifically, Defendant refused to pay the full proceeds owed under the Policy. Due demand was made by Plaintiff for proceeds to be in an amount sufficient to cover the damaged Property.

20. Defendant and/or Defendant's assigned agent sold the Policy to Plaintiff, making various statements and representations to Plaintiff that the Property would be covered. Relying on the promises and representations made by Defendant and/or Defendant's assigned agent, Plaintiff filed a claim under the Policy with the belief that the Property would be covered after a severe weather event such as the one that damaged the Property.

21. All conditions precedent to recovery under the Policy had, and have, been carried out and accomplished by Plaintiff.
22. As a result of Defendant's wrongful acts and omissions, Plaintiff was forced to retain the professional services of McClenney Moseley & Associates, PLLC, who is representing Plaintiff with respect to these causes of action.

#### **AGENCY**

23. Plaintiff hereby incorporates by reference all facts and circumstances set forth under the foregoing paragraphs.
24. All acts by Defendant Northfield Insurance Company were undertaken and completed by its officers, agents, servants, employees, and/or representatives. All such acts were either done with the full authorization or ratification of Defendant Northfield Insurance Company and/or were completed in its normal and routine course and scope of employment.
25. Defendant and Defendant's assigned adjuster's conduct constitutes multiple violations of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE § 541.060(a). All violations under this subsection are made actionable by TEX. INS. CODE § 541.151.
26. Defendant is liable for the unfair and deceptive acts of its assigned adjuster because he/she meets the definition of a "person" as defined by the Texas Insurance Code. The term "person" is defined as "any individual, corporation, association, partnership, reciprocal or inter insurance exchange, Lloyds plan, fraternal benefit society, or other legal entity engaged in the business of insurance, including an agent,

broker, *adjuster* or life and health insurance counselor.” TEX. INS. CODE §541.002(2) (emphasis added); *see also Liberty Mutual Ins. Co. v. Garrison Contractors, Inc.* 966 S.W.2d 482, 484 (Tex. 1998) (holding an insurance company employee to be a person for the purpose of bringing a cause of action against them under the Texas Insurance Code and subjecting them to individual liability).

### **NEGLIGENCE**

27. Plaintiff hereby incorporates by reference all facts and circumstances set forth under the foregoing paragraphs.
28. Plaintiff entrusted Defendant to properly adjust Plaintiff's insurance claim for the Property damage. Defendant did not properly adjust the claim and misinformed Plaintiff of the severity of the Property damage. Defendant had and owed a duty to ensure that the Property damage was properly adjusted. Nevertheless, Defendant failed to ensure that Plaintiff's damage was properly adjusted. This failure is a clear breach of Defendant's duty, and as a result, Plaintiff suffered significant injuries.
29. Defendant Northfield Insurance Company and its assigned adjuster had and owed a legal duty to Plaintiff to properly adjust all losses associated with the Property. Defendant, individually and through its assigned adjuster, breached this duty in a number of ways, including, but not limited to, the following:
  - A. Defendant, individually and through its assigned adjuster, was to exercise due care in adjusting and paying policy proceeds regarding the Property;
  - B. Defendant, individually and through its assigned adjuster, had a duty to competently and completely handle and pay all covered losses associated with the Property;

- C. Defendant, individually and through its assigned adjuster, failed to properly complete all adjusting activities associated with Plaintiff's damages; and,
- D. Defendant's acts, omissions, and/or breaches, individually and through its assigned adjuster, did great damage to Plaintiff, and were a proximate cause of Plaintiff's damages.

### **BREACH OF CONTRACT**

- 30. Plaintiff hereby incorporates by reference all facts and circumstances set forth under the foregoing paragraphs.
- 31. Defendant Northfield Insurance Company's conduct constitutes a breach of the insurance contract made between Defendant Northfield Insurance Company and Plaintiff. According to the Policy, which Plaintiff purchased, Defendant Northfield Insurance Company had the absolute duty to investigate Plaintiff's damages, and pay Plaintiff policy benefits for the claims made due to the extensive storm-related damages.
- 32. As a result of the storm-related event, Plaintiff suffered extreme weather related damages. Despite objective evidence of weather related damages provided by Plaintiff and its representatives, Defendant Northfield Insurance Company breached its contractual obligations under the Policy by failing to pay Plaintiff cost related benefits to properly repair the Property, as well as for related losses associated with the subject loss event. As a result of this breach, Plaintiff has suffered additional actual and consequential damages.

### **VIOLATIONS OF THE TEXAS DECEPTIVE TRADE PRACTICES ACT**

- 33. Plaintiff hereby incorporates by reference all facts and circumstances set forth under the foregoing paragraphs.

34. Defendant and/or its assigned adjuster engaged in false, misleading, or deceptive acts or practices that constitute violations of the Texas Deceptive Trade Practices Act (“DTPA”), which is codified in the Texas Business and Commerce Code (“TEX. BUS. & COM. CODE”), including but not limited to:

- A. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law (TEX. BUS. & COM. CODE § 17.46(b)(12));
- B. Misrepresenting the authority of a salesman, representative, or agent to negotiate the final terms of a consumer transaction (§ 17.46(b)(14));
- C. Failing to disclose information concerning goods or services which were known at the time of the transaction, and the failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had such information been disclosed (§ 17.46(b)(24));
- D. Using or employing an act or practice in violation of the Texas Insurance Code (§ 17.50(a)(4));
- E. Unreasonably delaying the investigation, adjustment, settlement offer and prompt resolution of Plaintiff’s claim (TEX. INS. CODE § 541.060(a)(2)-(5));
- F. Failure to properly investigate Plaintiff’s claim (§ 541.060(7)); and/or
- G. Hiring and relying upon a biased adjuster, in this case Defendant’s assigned adjuster, to obtain a favorable, results-oriented report, and to assist Defendant in severely

underpaying and/or denying Plaintiff's damage claim (TEX. BUS. & COM. CODE § 17.46(31)).

35. As described in this Original Petition, Defendant Northfield Insurance Company represented to Plaintiff that its Policy and Northfield Insurance Company's adjusting and investigative services had characteristics or benefits that it actually did not have, which gives Plaintiff the right to recover proceeds. TEX. BUS. & COM. CODE § 17.46(b)(5).

36. As described in this Original Petition, Defendant Northfield Insurance Company represented to Plaintiff that its Policy and Northfield Insurance Company's adjusting and investigative services were of a particular standard, quality, or grade when they were of another, which stands in violation of § 17.46 (b)(7).

37. By Defendant Northfield Insurance Company representing that they would pay the entire amount needed by Plaintiff to repair the damages caused by the weather related event and then not doing so, Defendant has violated §§ 17.46 (b)(5), (7), (12).

38. Defendant Northfield Insurance Company has breached an express warranty that the damage caused by the storm-related event would be covered under Policy. This breach entitles Plaintiff to recover under §§ 17.46 (b) (12), (20); 17.50 (a)(2).

39. Defendant Northfield Insurance Company's actions, as described herein, are unconscionable in that Defendant took advantage of Plaintiff's lack of knowledge, ability, and experience to a grossly unfair degree. Therefore, Defendant's unconscionable conduct gives Plaintiff the right to relief under § 17.50(a)(3).

40. Defendant Northfield Insurance Company's conduct, acts, omissions, and failures, as described in this Original Petition, are unfair practices in the business of insurance and are in violation of § 17.50 (a)(4).

41. Plaintiff is a consumer, as defined under the DTPA, and relied upon these false, misleading, and/or deceptive acts and/or practices, made by Defendant Northfield Insurance Company, to its detriment. As a direct and proximate result of Defendant's collective acts and conduct, Plaintiff has been damaged in an amount in excess of the minimum jurisdictional limits of this Court, for which Plaintiff now sues. All of the aforementioned acts, omissions, and failures of Defendant are a producing cause of Plaintiff's damages which are described in this Original Petition.

42. Because Defendant's collective actions and conduct were committed knowingly and intentionally, in addition to all damages described herein, Plaintiff is entitled to recover mental anguish damages and additional penalty damages, in an amount not to exceed three times such actual damages. § 17.50(b)(1).

43. As a result of Defendant's unconscionable, misleading, and deceptive actions and conduct, Plaintiff has been forced to retain the legal services of the undersigned attorneys to protect and pursue these claims on its behalf. Accordingly, Plaintiff also seeks to recover its costs and reasonable and necessary attorney's fees as permitted under § 17.50(d), as well as any other such damages to which Plaintiff may show itself to be justly entitled by law and in equity.

#### **VIOLATIONS OF THE TEXAS INSURANCE CODE**

44. Plaintiff hereby incorporates by reference all facts and circumstances set forth within the foregoing paragraphs.

45. Defendant and/or its assigned adjuster's actions constitute violations of the Texas Insurance Code ("TEX. INS. CODE"), Chapters 541 and 542, including but not limited to:

- A. Misrepresenting to Plaintiff pertinent facts or policy provisions relating to the coverage at issue (TEX. INS. CODE § 541.060(a)(1));
- B. Failing to attempt, in good faith, to effectuate a prompt, fair and equitable settlement of a claim with respect to which the insurer's liability has become reasonably clear (§ 541.060(a)(2)(A));
- C. Failing to promptly provide to a policyholder a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's denial of a claim or for the offer of a compromise settlement of a claim (§ 541.060(a)(3));
- D. Failing to affirm or deny coverage of Plaintiff's claim within a reasonable time and failing within a reasonable time to submit a reservation of rights letter to Plaintiff (§ 541.060(a)(4));
- E. Refusing, failing, or unreasonably delaying a settlement offer on the basis that other coverage is available (§ 541.060 (a)(5));
- F. Refusing, to pay a claim without conducting a reasonable investigation with respect to the claim (§ 541.060(a)(7));
- G. Forcing Plaintiffs to file suit to recover amounts due under the policy by refusing to pay all benefits due (§ 542.003(b)(5));

H. Misrepresenting an insurance policy by failing to disclose any matter required by law to be disclosed, including a failure to make such disclosure in accordance with another provision of this code (§ 541.061(5));

I. Engaging in false, misleading, and deceptive acts or practices under the DTPA (§541.151(2));

J. Failing to acknowledge receipt of the claim, commence any investigation of the claim, and request from the claimant all items, statements, and forms the insurer reasonably believes at that time will be required from the claimant no later than the 15th day after the receipt of notice of the claim (§ 542.055);

K. Failing to notify the claimant in writing of the acceptance or rejection of a claim no later than the 15th business day after the insurer receives all items, statements, and forms required by the insurer to secure a final proof of loss (§ 542.056(a));

L. Failing to state the reasons for rejection (§ 542.056(c));

M. Failing to notify the claimant of the reasons that the insurer needs 45 days in additional time to accept or reject the claim (§ 542.056(d));

N. Failing to pay a claim not later than the 5th business day after the date of notice of acceptance was made (§ 542.057); and/or

O. Failing to pay a valid claim after receiving all reasonably requested and required items from the insured. (§ 542.058(a)).

46. By its acts, omissions, failures and conduct, Defendant Northfield Insurance Company has engaged in unfair and deceptive acts and practices in the business of insurance. Plaintiff, the insured and beneficiary, has a valid claim as a result of its detrimental reliance upon Defendant Northfield Insurance Company's unfair or deceptive acts or practices. § 541.151(2).

47. Defendant's aforementioned conduct compelled Plaintiff to initiate this lawsuit to recover amounts due under the Policy, by offering substantially less than the amount ultimately recovered. Defendant refused to offer more than the grossly undervalued estimates prepared by Defendant Northfield Insurance Company and/or Defendant's assigned adjuster, despite knowing the actual damages were much greater than what was offered. Defendant's continued refusal to offer compelled Plaintiff to file suit. § 542.003(5).

48. Since a violation of the Texas Insurance Code is a direct violation of the DTPA, and because Defendant Northfield Insurance Company's actions and conduct were committed knowingly and intentionally, Plaintiff is entitled to recover, in addition to all damages described herein, mental anguish damages and additional penalty damages, in an amount not to exceed three times the amount of actual damages, for Defendant having knowingly, intentionally and/or negligently committed said actions and conduct. § 541.152.

49. As a result of Defendant Northfield Insurance Company's unfair and deceptive actions and conduct, Plaintiff has been forced to retain the legal services of the undersigned attorneys to protect and pursue these claims on its behalf. Accordingly, Plaintiff also seeks to recover its costs and reasonable and necessary attorney's fees as permitted under TEX. BUS. & COM. CODE § 17.50(d) or TEX. INS. CODE

§ 541.152 and any other such damages to which Plaintiff may show itself justly entitled by law and in equity.

**BREACH OF THE COMMON LAW DUTY  
OF GOOD FAITH & FAIR DEALING**

50. Plaintiff hereby incorporates by reference all facts and circumstances in the foregoing paragraphs.
51. From and after the time Plaintiff's claim was presented to Defendant Northfield Insurance Company, the liability of Defendant to pay the full claim in accordance with the terms of the Policy was more than reasonably clear. However, Defendant has refused to pay Plaintiff in full, despite there being no basis whatsoever on which a reasonable insurance company would have relied on to deny full payment. Defendant's conduct constitutes a breach of the common law duty of good faith and fair dealing. *See Viles v. Security National Ins. Co.*, 788 S.W.2d 556, 567 (Tex. 1990) (holding that an insurer has a duty to its insureds to "investigate claims thoroughly and in good faith" and an insurer can only deny a claim after a thorough investigation shows that there is a reasonable basis to deny that claim).
52. For the breach of the common law duty of good faith and fair dealing, Plaintiff is entitled to compensatory damages, including all forms of loss resulting from Defendant's breach of the duty, such additional costs, economic hardship, losses due to nonpayment of the amount owed to Plaintiff, and/or exemplary damages for emotional distress.

**KNOWLEDGE**

53. Each of the acts described above, together and singularly, were done "knowingly" and "intentionally," as the terms are used in the Texas Insurance Code, and were a producing cause of Plaintiff's damages described herein.

## **DAMAGES**

54. Plaintiff will show that all of the aforementioned acts, taken together or singularly, constitute the producing causes of the damages sustained by Plaintiff.

55. For breach of contract, Plaintiff is entitled to regain the benefit of Plaintiff's bargain, which is the amount of Plaintiff's claim, together with attorney's fees.

56. For noncompliance with the Texas Insurance Code, Unfair Settlement Practices, Plaintiff is entitled to actual damages, which include the loss of the benefit that should have been paid pursuant to the Policy, court costs and attorney's fees. For knowing conduct of the acts complained of, Plaintiff asks for three times Plaintiff's actual damages. TEX. INS. CODE § 541.152.

57. For noncompliance with Texas Insurance Code, Prompt Payment of Claims, Plaintiff is entitled to the amount of Plaintiff's claim, interest on the claim at the rate of eighteen (18) percent per year, together with attorney's fees. § 542.060.

58. For breach of the common law duty of good faith and fair dealing, Plaintiff is entitled to compensatory damages, including all forms of loss resulting from the insurer's breach of duty, such as additional costs, economic hardship, losses due to nonpayment of the amount the insurer owed, and/or exemplary damages for emotional distress.

59. For the prosecution and collection of this claim, Plaintiff has been compelled to engage the services of the law firm whose name is subscribed to this pleading. Therefore, Plaintiff is entitled to recover a sum for the reasonable and necessary services of Plaintiff's attorneys in the preparation and trial of this action, including any appeals to the Court of Appeals and/or the Supreme Court of Texas.

60. Defendant's acts have been the producing and/or proximate cause of damage to Plaintiff, and Plaintiff seeks an amount in excess of the minimum jurisdictional limits of this Court.

61. More specifically, Plaintiff seeks monetary relief, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees, in excess of \$200,000.00 but less than \$1,000,000.00.

### **ADDITIONAL DAMAGES & PENALTIES**

62. Defendant's conduct was committed knowingly and intentionally. Accordingly, Defendant is liable for additional damages under the DTPA, TEX. BUS. & COM. CODE § 17.50(b)(1), as well as all operative provisions of the Texas Insurance Code. Plaintiff is clearly entitled to the 18% damages allowed under TEX. INS. CODE § 542.060.

### **ATTORNEY'S FEES**

63. In addition, Plaintiff is entitled to all reasonable and necessary attorney's fees pursuant to the Texas Insurance Code, DTPA, and TEX. CIV. PRAC. & REM. CODE §§ 38.001-.005.

### **COMPEL MEDIATION**

64. Pursuant to TEX. INS. CODE § 541.161 and TEX. BUS. & COM. CODE § 17.5051, Plaintiff requests that Defendant be made to mediate no later than the 30th day of the signed order, following the 90th day after the date for which this pleading for relief is served upon Defendant.

### **JURY DEMAND**

65. Plaintiff demands a jury trial, consisting of citizens residing in Dallas County, Texas, and tenders the appropriate fee with this Original Petition.

### **DISCOVERY**

66. Texas Rule of Civil Procedure 47 has been met in this petition. As such, Plaintiff requests that Defendant respond to the Requests for Disclosure, Requests for Production and Interrogatories contained herein:

**I. REQUESTS FOR DISCLOSURE**

1. Pursuant to the Texas Rules of Civil Procedure, Plaintiff request that Defendant Northfield Insurance Company, disclose all information and/or material as required by Rule 194.2, paragraphs (a) through (l), and to do so within 50 days of this request.

**II. REQUESTS FOR PRODUCTION**

1. Please produce Northfield Insurance Company's complete claim files from the home, regional and local offices, as well as third party adjusters/adjusting firms regarding the subject claim, including copies of the file jackets, "field" files and notes, and drafts of documents contained in the file for the premises relating to or arising out of Plaintiff's underlying claim.
2. Please produce the underwriting files referring or relating in any way to the policy at issue in this action, including the file folders in which the underwriting documents are kept and drafts of all documents in the file.
3. Please produce a certified copy of the insurance policy pertaining to the claim made subject of this lawsuit, including all underwriting files and insurance applications sent on behalf of Plaintiff in its attempt to secure insurance on the Property, which is the subject of this suit.
4. Please produce the electronic diary, including the electronic and paper notes made by Northfield Insurance Company's claims personnel, contractors, and third party adjusters/adjusting firms relating to the Plaintiff's claim.

5. Please produce all emails and other forms of communication by and between all parties in this matter relating to the underlying event, claim or the Property, which is the subject of this suit.
6. Please produce the adjusting reports, estimates and appraisals prepared concerning Plaintiff's underlying claim.
7. Please produce the field notes, measurements and file maintained by the adjuster(s) and engineers who physically inspected the Property, which is the subject of this suit.
8. Please produce the emails, instant messages and internal correspondence pertaining to Plaintiff's underlying claim.
9. Please produce the videotapes, photographs and recordings of Plaintiff or Plaintiff's home, regardless of whether Northfield Insurance Company intends to offer these items into evidence at trial.
10. Please produce all communications, correspondence, documents and emails between any and all assigned adjusters and/or agents and the Plaintiff, not limited to physical or audio recordings of all conversations between Plaintiff and any and all assigned adjusters and/or agents.
11. Please produce all audio recordings or transcripts of conversations, calls, text, email or any other data sent to and from Plaintiff by any and all assigned adjusters and/or agents after their letter of representation sent by counsel.
12. Please provide copies of all marketing material sent on behalf of Northfield Insurance Company and/or its agents after the date of loss of the Property, which is the subject of this suit.

13. Please provide all correspondence between Northfield Insurance Company and its assigned adjuster, and all correspondence between Northfield Insurance Company and its assigned agents, after the date of loss of the Property, which is the subject of this suit.

### **III. INTERROGATORIES**

1. Please identify any person Northfield Insurance Company expects to call to testify at the time of trial.
2. Please identify the persons involved in the investigation and handling of Plaintiff's claim for insurance benefits arising from damage relating to the underlying event, claim or the Property, which is the subject of this suit, and include a brief description of the involvement of each person identified, their employer, and the date(s) of such involvement.
3. If Northfield Insurance Company or Northfield Insurance Company's representatives performed any investigative steps in addition to what is reflected in the claims file, please generally describe those investigative steps conducted by Northfield Insurance Company or any of Northfield Insurance Company's representatives with respect to the facts surrounding the circumstances of the subject loss. Identify the persons involved in each step.
4. Please identify by date, author, and result the estimates, appraisals, engineering, mold and other reports generated as a result of Northfield Insurance Company's investigation.
5. Please state the following concerning notice of claim and timing of payment:
  - a. The date and manner in which Northfield Insurance Company received notice of the claim;
  - b. The date and manner in which Northfield Insurance Company acknowledged receipt of the claim;

- c. The date and manner in which Northfield Insurance Company commenced investigation of the claim;
- d. The date and manner in which Northfield Insurance Company requested from the claimant all items, statements, and forms that Northfield Insurance Company reasonably believed, at the time, would be required from the claimant pursuant to the investigation; and
- e. The date and manner in which Northfield Insurance Company notified the claimant in writing of the acceptance or rejection of the claim.

6. Please identify by date, amount and reason, the insurance proceeds payments made by Defendant, or on Defendant's behalf, to the Plaintiff.

7. Has Plaintiff's claim for insurance benefits been rejected or denied? If so, state the reasons for rejecting/denying the claim.

8. When was the date Northfield Insurance Company anticipated litigation?

9. Have any documents (including those maintained electronically) relating to the investigation or handling of Plaintiff's claim for insurance benefits been destroyed or disposed of? If so, please identify what, when and why the document was destroyed, and describe Northfield Insurance Company's document retention policy.

10. Does Northfield Insurance Company contend that the insured's premises were damaged by storm-related events and/or any excluded peril? If so, state the general factual basis for this contention.

11. Does Northfield Insurance Company contend that any act or omission by the Plaintiff voided, nullified, waived or breached the insurance policy in any way? If so, state the general factual basis for this contention.
12. Does Northfield Insurance Company contend that the Plaintiff failed to satisfy any condition precedent or covenant of the Policy in any way? If so, state the general factual basis for this contention.
13. How is the performance of the adjuster(s) involved in handling Plaintiff's claim evaluated? State what performance measures are used and describe Northfield Insurance Company's bonus or incentive plan for adjusters.

### **CONCLUSION**

67. Plaintiff prays that judgment be entered against Defendant Northfield Insurance Company and that Plaintiff be awarded all of its actual damages, consequential damages, prejudgment interest, additional statutory damages, post judgment interest, reasonable and necessary attorney's fees, court costs and for all such other relief, general or specific, in law or in equity, whether pled or un-pled within this Original Petition.

### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays it be awarded all such relief to which it is due as a result of the acts of Defendant Northfield Insurance Company, and for all such other relief to which Plaintiff may be justly and rightfully entitled. In addition, Plaintiff requests the award of treble damages under the Texas Insurance Code, attorney's fees for the trial and any appeal of this lawsuit, for all costs of Court on

its behalf expended, for pre-judgment and post-judgment interest as allowed by law, and for any other and further relief, either at law or in equity, to which Plaintiff may show the itself to be justly entitled.

RESPECTFULLY SUBMITTED,

*/s/ Sean Patterson*

**McCLENNY MOSELEY & ASSOCIATES, PLLC**

James M. McCleyny

State Bar No. 24091857

J. Zachary Moseley

State Bar No. 24092863

Sean Patterson

State Bar No. 24073546

411 N. Sam Houston Parkway E., Suite 200

Houston, Texas 77060

Principal Office No. 713-334-6121

Facsimile: 713-322-5953

[James@mma-pllc.com](mailto:James@mma-pllc.com)

[Zach@mma-pllc.com](mailto:Zach@mma-pllc.com)

[Sean@mma-pllc.com](mailto:Sean@mma-pllc.com)

ATTORNEYS FOR PLAINTIFF

# EXHIBIT A-3

## CIVIL PROCESS REQUEST

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING  
FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVEDCASE NUMBER: DC-17-08944

CURRENT COURT: \_\_\_\_\_

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Original PetitionFILE DATE OF MOTION: 07/25/2017 Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: Northfield Insurance CompanyADDRESS: 505 5th Ave, Suite 729, Des Moines, IA, 50309-2318AGENT, (if applicable): Registered AgentTYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): Citation

SERVICE BY (check one):

<input type="checkbox"/> ATTORNEY PICK-UP	<input type="checkbox"/> CONSTABLE
<input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____	Phone: _____
<input type="checkbox"/> MAIL	<input checked="" type="checkbox"/> CERTIFIED MAIL
<input type="checkbox"/> PUBLICATION:	
Type of Publication: <input type="checkbox"/> COURTHOUSE DOOR, or	
<input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____	
<input type="checkbox"/> OTHER, explain _____	

\*\*\*\*\*

2. NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AGENT, (if applicable): \_\_\_\_\_

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): \_\_\_\_\_

SERVICE BY (check one):

<input type="checkbox"/> ATTORNEY PICK-UP	<input type="checkbox"/> CONSTABLE
<input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____	Phone: _____
<input type="checkbox"/> MAIL	<input type="checkbox"/> CERTIFIED MAIL
<input type="checkbox"/> PUBLICATION:	
Type of Publication: <input type="checkbox"/> COURTHOUSE DOOR, or	
<input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____	
<input type="checkbox"/> OTHER, explain _____	

## ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Sean Patterson TEXAS BAR NO./ID NO. 24073546MAILING ADDRESS: 411 N. Sam Houston Pkwy E., Suite 200, Houston, TX 77060PHONE NUMBER: 713 area code 334-6121 phone number FAX NUMBER: 713 area code 322-5953 fax numberEMAIL ADDRESS: Sean@mma-pllc.com

SERVICE REQUESTS WHICH CANNOT BE PROCESSED BY THIS OFFICE WILL BE HELD FOR 90 DAYS PRIOR TO CANCELLATION. FEES WILL BE REFUNDED ONLY UPON REQUEST, OR AT THE DISPOSITION OF THE CASE. SERVICE REQUESTS MAY BE REINSTATED UPON APPROPRIATE ACTION BY THE PARTIES.

INSTRUMENTS TO BE SERVED:

(Fill In Instrument Sequence Number, i.e. 1st, 2nd, etc.)

ORIGINAL PETITION

AMENDED PETITION  
 SUPPLEMENTAL PETITION

## COUNTERCLAIM

AMENDED COUNTERCLAIM  
 SUPPLEMENTAL COUNTERCLAIM

## CROSS-ACTION:

AMENDED CROSS-ACTION  
 SUPPLEMENTAL CROSS-ACTION

## THIRD-PARTY PETITION:

AMENDED THIRD-PARTY PETITION  
 SUPPLEMENTAL THIRD-PARTY PETITION

## INTERVENTION:

AMENDED INTERVENTION  
 SUPPLEMENTAL INTERVENTION

## INTERPLEADER

AMENDED INTERPLEADER  
 SUPPLEMENTAL INTERPLEADER

## INJUNCTION

## MOTION TO MODIFY

## SHOW CAUSE ORDER

## TEMPORARY RESTRAINING ORDER

## BILL OF DISCOVERY:

ORDER TO: \_\_\_\_\_  
 (specify)

MOTION TO: \_\_\_\_\_  
 (specify)

PROCESS TYPES:NON WRIT:CITATION

ALIAS CITATION  
 PLURIES CITATION  
 SECRETARY OF STATE CITATION  
 COMMISSIONER OF INSURANCE  
 HIGHWAY COMMISSIONER  
 CITATION BY PUBLICATION  
 NOTICE  
 SHORT FORM NOTICE

PRECEPT (SHOW CAUSE)  
 RULE 106 SERVICE

## SUBPOENA

WRITS:

ATTACHMENT (PROPERTY)  
 ATACHMENT (WITNESS)  
 ATTACHMENT (PERSON)

## CERTIORARI

EXECUTION  
 EXECUTION AND ORDER OF SALE

GARNISHMENT BEFORE JUDGMENT  
 GARNISHMENT AFTER JUDGMENT

HABEAS CORPUS  
 INJUNCTION  
 TEMPORARY RESTRAINING ORDER

PROTECTIVE ORDER (FAMILY CODE)  
 PROTECTIVE ORDER (CIVIL CODE)

POSSESSION (PERSON)  
 POSSESSION (PROPERTY)

SCIRE FACIAS  
 SEQUESTRATION  
 SUPERSEDEAS

# EXHIBIT A-4

Marissa Pittman

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_ COURT (FOR CLERK USE ONLY): \_\_\_\_\_

## STYLED Ace Auto Care v. Northfield Insurance Company

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:	Person or entity completing sheet is:
Name: Sean Patterson	Email: Sean@mma-pllc.com	Plaintiff(s)/Petitioner(s): Ace Auto Care	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____
Address: 411 N. Sam Houston Pkwy E.	Telephone: 713-344-6121	Defendant(s)/Respondent(s): Northfield Insurance Company	Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____
City/State/Zip: Suite 200, Houston, TX 77060	Fax: 713-322-5953		Presumed Father: _____
Signature: Sean Patterson	State Bar No: 24073546		
[Attach additional page as necessary to list all parties]			

## 2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil			Family Law	
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)
<input checked="" type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <b>Malpractice</b> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability:  <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product:  <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other  <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order
<b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____				<b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
Employment	Other Civil			
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____		
Tax	Probate & Mental Health			
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<b>Probate/Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____	

## 3. Indicate procedure or remedy, if applicable (may select more than 1):

<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
4. Indicate damages sought (do not select if it is a family law case):		
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000		

# EXHIBIT A-5

**FORM NO. 353-3 - CITATION  
THE STATE OF TEXAS**

To:

**NORTHFIELD INSURANCE COMPANY  
505 5TH AVE SUITE 729  
DES MOINES IA 50309**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **116th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **ACE AUTO CARE**

Filed in said Court **25th day of July, 2017** against

**NORTHFIELD INSURANCE COMPANY**

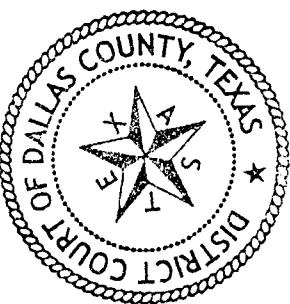
For Suit, said suit being numbered **DC-17-08944**, the nature of which demand is as follows:

Suit on **CNTR CNSMR COM DEBT** etc. as shown on said petition **REQUEST FOR DISCLOSURE, INTERROGATORIES, AND PRODUCTION**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County Texas. Given under my hand and the Seal of said Court at office this **28th day of July, 2017**.

ATTEST: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas

By *Rhonda L. Williams*, Deputy  
KHARON WILLIAMS



**CERT MAIL**

**CITATION**

**DC-17-08944**

**ACE AUTO CARE**

**VS.**

**NORTHFIELD INSURANCE COMPANY**

ISSUED THIS

**28th day of July, 2017**

**FELICIA PITRE**  
Clerk District Courts,  
Dallas County, Texas

By: KHARON WILLIAMS, Deputy

**Attorney for Plaintiff**  
SEAN M PATTERSON  
350 PINE STREET  
SUITE 1419  
BEAUMONT TX 77701  
409-833-5400

**DALLAS COUNTY CONSTABLE**  
**FEES PAID**  
**FEES NOT PAID**

## OFFICER'S RETURN

Case No. : DC-17-08944

Court No.116th District Court

Style: ACE AUTO CARE

5

NORTHFIELD INSURANCE COMPANY

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. M. Executed at \_\_\_\_\_  
within the County of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_. M. on the \_\_\_\_\_ day of \_\_\_\_\_  
by delivering to the within named

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was \_\_\_\_\_ miles and my fees are as follows: To certify which witness my hand.

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said \_\_\_\_\_  
to certify which witness my hand and seal of office.

Notary Public \_\_\_\_\_ County \_\_\_\_\_

# EXHIBIT A-6

FILED

OFFICER'S RETURN 17 AUG 11 PM 4:27

Case No. : DC-17-08944

Court No.116th District Court

Style: ACE AUTO CARE

vs.

NORTHFIELD INSURANCE COMPANY

Came to hand on the 28<sup>th</sup> day of July, 20 17, at 1 o'clock P.M. Executed at 505 5th Ave Ste 729 Des Moines IA 50309  
within the County of \_\_\_\_\_ at 9:37 o'clock A.M. on the 4<sup>th</sup> day of August,  
20 17, by delivering to the within named

Northfield Insurance Company by Us Certified mail return  
receipt received and signed by Vickie Rod

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by  
me in serving such process was \_\_\_\_\_ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ <u>76</u>
For mileage	\$ _____
For Notary	\$ _____

Vickie Rod  
of \_\_\_\_\_ County, \_\_\_\_\_  
By Vickie Rod Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said \_\_\_\_\_ before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_  
to certify which witness my hand and seal of office.

**FELICIA PITRE**  
DISTRICT CLERK  
600 COMMERCE STREET  
DALLAS, TEXAS 75202-4606

Notary Public \_\_\_\_\_ County \_\_\_\_\_

**FORM NO. 353-3 - CITATION  
THE STATE OF TEXAS**

**To:**

**NORTHFIELD INSURANCE COMPANY  
505 5TH AVE SUITE 729  
DES MOINES IA 50309**

**GREETINGS:**

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **116th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **ACE AUTO CARE**

Filed in said Court **25th day of July, 2017** against

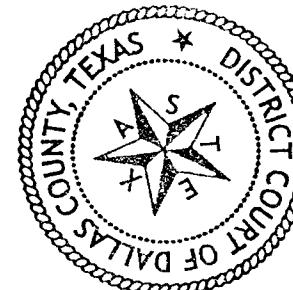
**NORTHFIELD INSURANCE COMPANY**

For Suit, said suit being numbered **DC-17-08944**, the nature of which demand is as follows:  
Suit on **CNTR CNSMR COM DEBT** etc. as shown on said petition **REQUEST FOR DISCLOSURE, INTERROGATORIES, AND PRODUCTION**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.  
Given under my hand and the Seal of said Court at office this 28th day of July, 2017.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By  Deputy  
KHARON WILLIAMS



**CERT MAIL**

**CITATION**

**DC-17-08944**

**ACE AUTO CARE**

**vs.**

**NORTHFIELD INSURANCE COMPANY**

**ISSUED THIS  
28th day of July, 2017**

**FELICIA PITRE  
Clerk District Courts,  
Dallas County, Texas**

**By: KHARON WILLIAMS, Deputy**

**Attorney for Plaintiff  
SEAN M PATTERSON  
350 PINE STREET  
SUITE 1419  
BEAUMONT TX 77701  
409-833-5400**

**DALLAS COUNTY CONSTABLE  
FEES  
PAID**

**FEES NOT  
PAID**



Date: August 4, 2017

MAIL MAIL:

The following is in response to your August 4, 2017 request for delivery information on your Certified Mail™/RRE item number 92148901066154000110611352. The delivery record shows that this item was delivered on August 4, 2017 at 9:37 am in DES MOINES, IA 50309. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink that reads 'Vicki K. Wulf'.

Address of Recipient :

A handwritten address in black ink that reads '555 5th Ave'.

Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,  
United States Postal Service

The customer reference information shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Reference ID: 92148901066154000110611352  
DC-17-8944/DPRO/KW  
NORTHFIELD INSURANCE COMPANY  
505 5th Ave Ste 729  
Des Moines, IA 50309-2318

**DC-17-8944/DPRO/KW**  
NORTHFIELD INSURANCE COMPANY  
505 5TH AVE STE 729  
DES MOINES, IA 50309-2318

FELICIA PITRE  
DISTRICT CLERK  
GEORGE ALLEN SR COURT BLDG  
600 COMMERCE ST STE 103  
DALLAS, TX 75202-4689

**RETURN RECEIPT (ELECTRONIC)**

9214 8901 0661 5400 0110 6113 52



CUT / FOLD HERE

SIX ENVELOPE  
CUT / FOLD HERE

CUT / FOLD HERE

# EXHIBIT A-7

**CAUSE NO. DC-17-08944**

**ACE AUTO CARE,** § **IN THE DISTRICT COURT**  
§  
**Plaintiff,** §  
§  
v. § **DALLAS COUNTY, TEXAS**  
§  
**NORTHFIELD INSURANCE** §  
**COMPANY,** §  
§  
**Defendant.** § **116TH JUDICIAL DISTRICT**

**DEFENDANT NORTHFIELD INSURANCE COMPANY'S**  
**ORIGINAL ANSWER**

In response to Plaintiffs' Original Petition (the "Petition"), Defendant Northfield Insurance Company ("Defendant" or "Northfield"), files its Original Answer thereto.

**I.**

**GENERAL DENIAL**

Defendant denies all and singular the allegations contained in the Petition and demands strict proof thereof.

**II.**

**ADDITIONAL DEFENSES**

1. Defendant denies that all conditions precedent to Plaintiff's claims for recovery have occurred or been met, and they have not been waived.
2. Coverage is precluded to the extent the loss occurred outside the policy period.
3. Coverage is precluded to the extent Plaintiff seeks reimbursement for the replacement cost value of property which has not been repaired or replaced, "unless the repairs or replacement are made as soon as reasonably possible after the loss or damage" and/or the loss or damage to the property is not covered under the Policy.

4. Coverage is precluded to the extent the loss was not caused by a “Covered Cause of Loss.”

5. Coverage is precluded to the extent Plaintiff seeks reimbursement for loss or damage on a replacement cost basis more than the least of the following: “(1) The Limit of Insurance applicable to the lost or damaged property; (2) The cost to replace the lost or damaged property with other property: a) Of comparable material and quality; and b) Used for the same purpose; or (3) The amount actually spent that is necessary to repair or replace the lost or damaged property.”

6. Plaintiff’s claims are barred in whole or in part by the wear and tear exclusion.

7. Plaintiff’s claims are barred in whole or in part by the exclusion for damage or loss due to “[s]ettling, cracking, shrinking, or expansion.”

8. Plaintiff’s claims are barred in whole or in part by the exclusion for damage or loss due to “[r]ust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself.”

9. Plaintiff’s claims are barred in whole or in part by the exclusion for faulty, inadequate or defective: “(2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction; (3) Materials used in repair, construction, renovation or remodeling; or (4) Maintenance; of part or all of any property on or off the described premises.”

10. Plaintiff’s claims are barred in whole or in part because the Policy precludes coverage for damage to the “interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether

driven by wind or not, unless: (1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters.”

11. Some or all of Plaintiff’s claims may be excluded by breach of policy requirements and/or conditions in the Policy, including the insured’s duties in the event of loss or damage, such as the failure to give Northfield prompt notice of the loss or damage or to take all reasonable steps to protect Covered Property from further damage.

12. Plaintiff’s claims may be barred by the Amendatory Provisions – Duties in the Event of Loss or Damage provision, which requires that notice of loss or damage caused by windstorm or hail “must occur no later than 180 days after the date of loss.”

13. Plaintiff’s claims are barred in whole or in part because the Policy precludes coverage for loss or damage caused by or resulting from “[c]ontinuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.”

14. Plaintiff’s claims are barred in whole or in part because the Policy precludes coverage for “[n]eglect of an insured to use reasonable means to save and preserve property from further damage at and after the time of loss.”

15. Plaintiff’s claims may be barred in whole or in part by the Ordinance or Law exclusion.

16. Plaintiff’s claims may be barred and/or limited to the \$10,000 limit for the increased cost of construction “incurred to comply with enforcement of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property.”

17. Plaintiff’s claims may be barred in whole or in part by the exclusion for loss or damage caused by or resulting from any “Fungus”, Wet Rot, Dry Rot, and Bacteria.

18. Plaintiff has failed to mitigate its damages.
19. Plaintiff's claims are subject to the Windstorm or Hail Fixed Dollar Deductible, along with any co-insurance penalty that may apply, along with the limits of the policy.
20. All or a portion of Plaintiff's claims were caused by the negligence and/or comparative responsibility of Plaintiff, persons acting on Plaintiff's behalf and/or under Plaintiff's direction or control, and/or third parties over which Defendant had no control.
21. Defendant is entitled to a credit or offset for all amounts previously paid by any other insurer, including Northfield.
22. Northfield reserves the right to invoke appraisal.
23. Plaintiff has failed to state a claim.
24. To the extent that Plaintiff seeks punitive or exemplary damages, such claims are barred in whole or in part by the Due Process Clause and the Excessive Fines Clause of the United States Constitution, Chapter 41 of the Texas Civil Practice & Remedies Code, or any other applicable law.

WHEREFORE, PREMISES CONSIDERED, Defendant Northfield Insurance Company prays that Plaintiff take nothing by this suit, and that Defendant goes hence and recovers costs on its behalf expended.

Respectfully submitted,

/s/ Wm. Lance Lewis  
WM. LANCE LEWIS  
State Bar No. 12314560  
ALISSA PUCKETT  
State Bar No. 24056886  
QUILLING, SELANDER, LOWNDS, WINSLETT  
& MOSER, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201  
(214) 871-2100 (Phone)  
(214) 871-2111 (Fax)  
llewis@qslwm.com  
apuckett@qslwm.com

**ATTORNEYS FOR DEFENDANT  
NORTHFIELD INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of this Original Answer has been furnished to counsel of record as provided below, via facsimile, in accordance with the Texas Rules of Civil Procedure, this 18th day of August 2017:

James M. McClenney  
J. Zachary Moseley  
Sean Patterson  
McClenny Moseley & Associates, PLLC  
411 N. Sam Houston Parkway E., Suite 200  
Houston, Texas 77060

/s/ Wm. Lance Lewis  
Wm. Lance Lewis / Alissa Puckett